

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

Page 1 of 3

DOCKET NO.: 2003-0346-PST-E TCEQ ID NO.: RN101765709 CASE NO.: 2696

RESPONDENT NAME: FRIENDS INTERNATIONAL, INC. DBA SUPER DELI & GROCERY

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" type="checkbox"/> FINDINGS DEFAULT ORDER	<input checked="" type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: 1824 Sens Road, La Porte, Harris County</p> <p>TYPE OF OPERATION: Convenience store with retail sales of gasoline</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on March 31, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney: Ms. Dinniah M. Chahin, Litigation Division, MC 175, (512) 239-0617 Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873 TCEQ Enforcement Coordinator: Ms. Lindsey Jones, Air Enforcement Section, MC 149, (512) 239-4930 TCEQ Regional Contact: Ms. Nicole Bealle, Houston Regional Office, MC R-12, (713) 767-3623 Respondent: Mr. Amir Ali, President, Friends International, Inc. dba Super Deli & Grocery, 6013 Stewart Road, Galveston, Texas 77551 and 1824 Sens Road, La Porte, Texas 77571 Respondent's Attorney: Not represented by counsel.</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Dates of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: May 31, 2002</p> <p>Date of NOE Relating to this Case: August 30, 2002</p> <p>Background Facts:</p> <p>An EDPRP was filed on December 15, 2004. The Executive Director was unable to obtain service of the EDPRP. An EDFARP was filed on August 21, 2007. The Respondent received notice of the EDFARP on August 22, 2007 as evidenced by the signature on the return receipt "green card". The Respondent and its consultant contacted the Executive Director's staff and provided documentation related to the violations. The Executive Director's staff spoke with the Respondent and its consultant about its options, but the Respondent and its consultant have failed to provide further documentation. The Respondent has not filed an answer, requested a hearing, or scheduled a settlement conference.</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report.</p> <p>PST:</p> <p>1. Failed to maintain proof of attendance and completion of facility representative training as specified in 30 TEX. ADMIN. CODE § 115.248 (regarding state approved Stage II training course) and documentation of Stage II training for each employee [30 TEX. ADMIN. CODE § 115.246(4) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>2. Failed to conduct monthly monitoring of the UST systems [30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1)].</p>	<p>Total Assessed: \$16,000</p> <p>Total Deferred: \$0</p> <p>SEP Conditional Offset: \$0</p> <p>Total Due to General Revenue: \$16,000</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this Order.</p> <p>Site Compliance History Classification: <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification: <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken</p> <p>The Executive Director recognizes that the Respondent has provided proof of attendance and completion of facility representative training (regarding state approved Stage II training course) and documentation of Stage II training for each employee.</p> <p>Ordering Provisions</p> <p>The Respondent's UST delivery certificate is revoked immediately upon the effective date of the Default and Shut Down Order. The Respondent may submit an application for a new delivery certificate only after the Respondent has complied with all of the requirements of the Default and Shut Down Order.</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> 1. Immediately, take the following steps to shut down operations of the non-compliant UST systems at the Station: <ol style="list-style-type: none"> a. Cease dispensing fuel from the USTs; b. Cease receiving deliveries of regulated substances into the USTs; c. Padlock the dispensers; d. Empty the USTs of all regulated substances; and e. Temporarily remove the UST systems from service. 2. Within 10 days, send its UST delivery certificate to TCEQ. 3. Within 15 days, submit to the Executive Director a detailed written report documenting the steps it has taken to comply with Ordering Provisions No. 1. 4. If elected to permanently remove from service any UST systems at the Station: <ol style="list-style-type: none"> a. Immediately, permanently remove those UST systems; and b. Within 15 days, submit to the Commission a written report documenting compliance.

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>3. Failed to monitor each pressurized line for releases [30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(ii) and TEX. WATER CODE § 26.3475(a)].</p> <p>4. Failed to conduct effective manual or automatic inventory control procedures for all UST systems at a retail station [30 TEX. ADMIN. CODE § 334.48(c)].</p>		<p>5. Prior to resuming service of the USTs:</p> <ul style="list-style-type: none">a. Test or monitor the piping in the UST systems;b. Install and implement a release detection method; andc. Begin conducting inventory control and reconciliation procedures. <p>6. Within 10 days of resuming service, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 5.</p>



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (09/02)

PCW Revision 3/13/2003

DATES			
PCW	20-Jul-2007	Screening	7-Mar-2003
Priority Due	5-Jul-2003	EPA Due	
RESPONDENT INFORMATION			
Respondent	Friends International, Inc. dba Super Deli & Grocery		
Respondent/Site ID No(s)	Petroleum Storage Tank Facility ID No. 0053128		
Facility/Site Region	12 - Houston	Major/Minor Source	Minor
CASE INFORMATION			
Enf./Case ID No(s)	2696		
Docket No.	2003-0346-PST-E	No. Violations	3
Case Priority	3	Order Type	Findings
Enf. Coordinator	Mike Limos	EC's Team	Enforcement Team 6
Media Program(s)	Petroleum Storage Tank		
Admin. Penalty \$ Limit	Minimum \$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)		Subtotal 1	\$16,000
ADJUSTMENTS (+/-) TO SUBTOTAL 1			
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.			
Compliance History	-10% Reduction	Subtotals 2, 3 & 7	- \$1,600
Notes	Reduction due to High Performer classification.		+
Culpability	0% Enhancement	Subtotal 4	\$0
No <input type="checkbox"/> Select Yes/No			
Notes	The respondent does not meet culpability criteria.		+
Good Faith Effort to Comply	0% Reduction	Subtotal 5	\$0
Before NOV	NOV to EDPRP/Settlement Offer		
Extraordinary			
Ordinary			
None of the above	X (mark with small x)		+
Notes	The respondent has not yet achieved compliance.		
Economic Benefit	0% Enhancement*	Subtotal 6	\$0
\$3,898 Total EB Amounts	*Capped at the Total EB \$ Amount		=
\$3,434 Approx. Cost of Compliance			
SUM OF SUBTOTALS 1-7		Final Subtotal	\$14,400
OTHER FACTORS AS JUSTICE MAY REQUIRE		Adjustment	\$1,600
Reduces or enhances the Final Subtotal by the indicated percentage. (enter number only; e.g. -30 for -30%)			
Notes	Because this is a Default Order, the Executive Director recommends an upward adjustment to offset the reduction for compliance history.		=
		Final Penalty Amount	\$16,000
STATUTORY LIMIT ADJUSTMENT		Final Assessed Penalty	\$16,000
DEFERRAL		Adjustment	\$0
Reduces the Final Assessed Penalty by the indicated percentage. (enter number only; e.g. 20 for 20% reduction)			
Notes	No deferral is recommended because the settlement termination date has expired.		=
PAYABLE PENALTY			\$16,000

Screening Date 7-Mar-2003 Respondent Friends International, Inc. dba Super Deli & Grocery Case ID No. 2696 Respondent/Site ID No. Petroleum Storage Tank Facility ID No. 0053128 Media [Statute] Petroleum Storage Tank Enf. Coordinator Mike Limos Site Address 1824 Sems Road, La Porte, Harris County	Docket Number 2003-0346-PST-E Policy Revision 2 (09/02) PCW Revision 3/13/2003 PCW
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Compliance History Worksheet

>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	<i>Enter Number Here</i>	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%

Please enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> **Repeat Violator (Subtotal 3)**

No ☐ ☒ Select Yes/No

Adjustment Percentage (Subtotal 3) 0%

>> **Compliance History Person Classification (Subtotal 7)**

High Performer ☐ ☒ Select High, Average or Poor

Adjustment Percentage (Subtotal 7) -10%

Compliance History Summary

Compliance History Notes

Reduction due to High Performer classification.

Total Adjustment Percentage (Subtotals 2, 3 & 7) -10%

Screening Date 07-Mar-03	Docket Number 2003-0346-PST-E	PCW
Respondent Friends International, Inc. dba Super Deli & Grocery		Policy Revision 2 (09/02)
Case ID No. 2696		PCW Revision 3/13/2003
Respondent/Site ID No. Petroleum Storage Tank Facility ID No. 0053128		
Media [Statute] Petroleum Storage Tank		
Enf. Coordinator Mike Limos		
Violation Number	<div style="border: 1px solid black; text-align: center;">1</div>	
Primary Rule Cite	<div style="border: 1px solid black; text-align: center;">30 Tex. Admin. Code § 115.246(4)</div>	
Secondary Cite(s)	<div style="border: 1px solid black; text-align: center;">Tex. Health & Safety Code § 382.085(b)</div>	
Violation Description	<div style="border: 1px solid black; padding: 5px;">Failure to maintain proof of attendance and completion of facility representative training as specified in 30 Tex. Admin. Code § 115.248 (state approved Stage II training course) and documentation of Stage II training for each employee.</div>	
Base Penalty		<div style="border: 1px solid black; text-align: right;">\$10,000</div>
» Environmental, Property and Human Health Matrix		
Harm		
	Release	Major Moderate Minor
OR	Actual	<div style="border: 1px solid black; width: 100px; height: 20px;"></div>
	Potential	<div style="border: 1px solid black; width: 100px; height: 20px;"></div>
Percent		<div style="border: 1px solid black; width: 100px; height: 20px;"></div>
» Programmatic Matrix		
	Falsification	Major Moderate Minor
OR	Actual	<div style="border: 1px solid black; width: 100px; height: 20px;"></div>
	Potential	<div style="border: 1px solid black; width: 100px; height: 20px;"></div>
Percent		<div style="border: 1px solid black; text-align: right;">10%</div>
Matrix Notes	<div style="border: 1px solid black; padding: 5px;">100% of the rule was not met.</div>	
Adjustment		<div style="border: 1px solid black; text-align: right;">-\$9,000</div>
Base Penalty Subtotal		<div style="border: 1px solid black; text-align: right;">\$1,000</div>
Violation Events		
Number of Violation Events		<div style="border: 1px solid black; text-align: center;">1</div>
<i>mark only one; use small x</i>	daily	<div style="border: 1px solid black; width: 100px; height: 20px;"></div>
	monthly	<div style="border: 1px solid black; width: 100px; height: 20px;"></div>
	quarterly	<div style="border: 1px solid black; width: 100px; height: 20px;"></div>
	semiannual	<div style="border: 1px solid black; width: 100px; height: 20px;"></div>
	annual	<div style="border: 1px solid black; width: 100px; height: 20px;"></div>
	single event	<div style="border: 1px solid black; text-align: center;">x</div>
Violation Base Penalty		<div style="border: 1px solid black; text-align: right;">\$1,000</div>
Events Notes	<div style="border: 1px solid black; padding: 5px;">One single event is recommended based on the May 31, 2002 investigation.</div>	
Economic Benefit (EB) for this violation		Statutory Limit Test
Estimated EB Amount (\$)		<div style="border: 1px solid black; text-align: right;">\$6</div>
Violation Final Penalty total		<div style="border: 1px solid black; text-align: right;">\$1,000</div>
This Violation Final Assessed Penalty (adjusted for limits)		<div style="border: 1px solid black; text-align: right;">\$1,000</div>

Economic Benefit Worksheet

Respondent Friends International, Inc. dba Super Deli & Grocery

ID Number(s) 2696

Media [Statute] Petroleum Storage Tank

Violation Number 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System	\$50	31-May-2002	30-Oct-2004	2.4	\$6	n/a	\$6
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to maintain Stage II training records for employees as required. Date required is the date of investigation. Final date is estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx Cost of Compliance \$50

TOTAL \$6

Screening Date 07-Mar-03	Docket Number 2003-0346-PST-E	PCW
Respondent Friends International, Inc. dba Super Deli & Grocery		Policy Revision 2 (09/02)
Case ID No. 2696		PCW Revision 3/13/2003
Respondent/Site ID No. Petroleum Storage Tank Facility ID No. 0053128		
Media [Statute] Petroleum Storage Tank		
Enf. Coordinator Mike Limos		
Violation Number	<div style="border: 1px solid black; text-align: center; width: 100px;">2</div>	
Primary Rule Cite	<div style="border: 1px solid black; text-align: center;">30 Tex. Admin. Code §§ 334.50(b)(1)(A) and (b)(2)(A)(ii)</div>	
Secondary Cite(s)	<div style="border: 1px solid black; text-align: center;">Tex. Water Code §§ 26.3475(c)(1) and (a)</div>	
Violation Description	<div style="border: 1px solid black; padding: 5px;">Failure to conduct monthly monitoring of the Underground Storage Tank (UST) system and to monitor each pressurized line for releases.</div>	
Base Penalty		<div style="border: 1px solid black; text-align: right;">\$10,000</div>
» Environmental, Property and Human Health Matrix		
Harm		
	Release	Major Moderate Minor
OR	Actual	<div style="border: 1px solid black; width: 100px; height: 20px;"></div>
	Potential	<div style="border: 1px solid black; width: 100px; height: 20px; text-align: center;">x</div>
Percent		<div style="border: 1px solid black; text-align: right;">25%</div>
» Programmatic Matrix		
	Falsification	Major Moderate Minor
OR	Actual	<div style="border: 1px solid black; width: 100px; height: 20px;"></div>
	Potential	<div style="border: 1px solid black; width: 100px; height: 20px;"></div>
Percent		<div style="border: 1px solid black; text-align: right;"></div>
Matrix Notes	<div style="border: 1px solid black; padding: 5px;">Failure to conduct monthly monitoring of the UST system and to monitor each pressurized line for releases could result in the undetected release of a significant amount of pollutants which would exceed levels protective of human health and environmental receptors.</div>	
Adjustment		<div style="border: 1px solid black; text-align: right;">-\$7,500</div>
Base Penalty Subtotal		<div style="border: 1px solid black; text-align: right;">\$2,500</div>
Violation Events		
Number of Violation Events		<div style="border: 1px solid black; text-align: center;">3</div>
<i>mark only one; use small x</i>	daily	<div style="border: 1px solid black; width: 100px; height: 20px;"></div>
	monthly	<div style="border: 1px solid black; width: 100px; height: 20px;"></div>
	quarterly	<div style="border: 1px solid black; width: 100px; height: 20px;"></div>
	semiannual	<div style="border: 1px solid black; width: 100px; height: 20px; text-align: center;">x</div>
	annual	<div style="border: 1px solid black; width: 100px; height: 20px;"></div>
	single event	<div style="border: 1px solid black; width: 100px; height: 20px;"></div>
Violation Base Penalty		<div style="border: 1px solid black; text-align: right;">\$7,500</div>
Events Notes	<div style="border: 1px solid black; padding: 5px;">Three semiannual events are recommended based on the May 31, 2002 investigation date through the end of the 60 day settlement period (August 17, 2003), to make penalty commensurate with the situation.</div>	
Economic Benefit (EB) for this violation		Statutory Limit Test
Estimated EB Amount (\$)		<div style="border: 1px solid black; text-align: right;">\$1,380</div>
Violation Final Penalty total		<div style="border: 1px solid black; text-align: right;">\$7,500</div>
This Violation Final Assessed Penalty (adjusted for limits)		<div style="border: 1px solid black; text-align: right;">\$7,500</div>

Economic Benefit Worksheet**Respondent** Friends International, Inc. dba Super Deli & Grocery**ID Number(s)** 2696**Media [Statute]** Petroleum Storage Tank**Violation Number** 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs**Avoided Costs****ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)	\$1,200	31-May-2002	1-Mar-2005	3.0	\$180	\$1,200	\$1,380

Notes for AVOIDED costs

Estimated cost includes the amount to conduct monthly monitoring of the release UST system and to monitor each pressurized line for releases once per year. Date required is the investigation date. Final date is the projected date of compliance.

Approx Cost of Compliance \$1,200**TOTAL** \$1,380

Screening Date 07-Mar-03		Docket Number 2003-0346-PST-E'		PCW	
Respondent Friends International, Inc. dba Super Deli & Grocery		Policy Revision 2 (09/02)			
Case ID No. 2696		PCW Revision 3/13/2003			
Respondent/Site ID No. Petroleum Storage Tank Facility ID No. 0053128					
Media [Statute] Petroleum Storage Tank					
Enf. Coordinator Mike Limos					
Violation Number		<div style="border: 1px solid black; padding: 2px; text-align: center;">3</div>			
Primary Rule Cite		<div style="border: 1px solid black; padding: 2px; text-align: center;">30 Tex. Admin. Code § 334.48(c)</div>			
Secondary Cite(s)		<div style="border: 1px solid black; padding: 2px; height: 15px;"></div>			
Violation Description		<div style="border: 1px solid black; padding: 2px;">Failure to conduct effective manual or automatic inventory control procedures for all UST systems at a retail facility.</div>			
Base Penalty				<div style="border: 1px solid black; padding: 2px; text-align: right;">\$10,000</div>	
» Environmental, Property and Human Health Matrix					
Harm					
Release		Major		Moderate	
Actual		<div style="border: 1px solid black; padding: 2px; width: 50px;"></div>		<div style="border: 1px solid black; padding: 2px; width: 50px;"></div>	
Potential		<div style="border: 1px solid black; padding: 2px; text-align: center;">X</div>		<div style="border: 1px solid black; padding: 2px; width: 50px;"></div>	
OR				Percent <div style="border: 1px solid black; padding: 2px; text-align: center;">25%</div>	
» Programmatic Matrix					
Falsification		Major		Moderate	
OR		<div style="border: 1px solid black; padding: 2px; width: 50px;"></div>		Percent <div style="border: 1px solid black; padding: 2px; width: 50px;"></div>	
Matrix Notes		<div style="border: 1px solid black; padding: 2px;">Failure to conduct effective manual or automatic inventory control procedures for the UST system could result in the undetected release of significant amount of pollutants which would exceed levels protective of human health and environmental receptors.</div>			
Adjustment				<div style="border: 1px solid black; padding: 2px; text-align: right;">-\$7,500</div>	
Base Penalty Subtotal				<div style="border: 1px solid black; padding: 2px; text-align: right;">\$2,500</div>	
Violation Events					
Number of Violation Events		<div style="border: 1px solid black; padding: 2px; text-align: center;">3</div>			
<small>mark only one; use small x</small>		<div style="display: flex; flex-direction: column; align-items: flex-start;"> <div style="margin-bottom: 5px;">daily <div style="border: 1px solid black; padding: 2px; width: 50px;"></div></div> <div style="margin-bottom: 5px;">monthly <div style="border: 1px solid black; padding: 2px; width: 50px;"></div></div> <div style="margin-bottom: 5px;">quarterly <div style="border: 1px solid black; padding: 2px; width: 50px;"></div></div> <div style="margin-bottom: 5px;">semiannual <div style="border: 1px solid black; padding: 2px; text-align: center;">X</div></div> <div style="margin-bottom: 5px;">annual <div style="border: 1px solid black; padding: 2px; width: 50px;"></div></div> <div style="margin-bottom: 5px;">single event <div style="border: 1px solid black; padding: 2px; width: 50px;"></div></div> </div>			
Violation Base Penalty				<div style="border: 1px solid black; padding: 2px; text-align: right;">\$7,500</div>	
Events Notes		<div style="border: 1px solid black; padding: 2px;">Three semiannual events are recommended based on the May 31, 2002 investigation date through the end of the 60 day settlement period (August 17, 2003), to make penalty commensurate with the situation.</div>			
Economic Benefit (EB) for this violation			Statutory Limit Test		
Estimated EB Amount (\$)		<div style="border: 1px solid black; padding: 2px; text-align: center;">\$2,512</div>		Violation Final Penalty total <div style="border: 1px solid black; padding: 2px; text-align: right;">\$7,500</div>	
This Violation Final Assessed Penalty (adjusted for limits)				<div style="border: 1px solid black; padding: 2px; text-align: right;">\$7,500</div>	

Economic Benefit Worksheet**Respondent** Friends International, Inc. dba Super Deli & Grocery**ID Number(s)** 2696**Media [Statute]** Petroleum Storage Tank**Violation Number** 3**Percent
Interest**

5.0

**Years of
Depreciation**

15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs**Avoided Costs****ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)	\$2,184	31-May-2002	1-Mar-2005	3.0	\$328	\$2,184	\$2,512

Notes for AVOIDED costs

Estimated expense for inventory control based on an employee paid \$6.00/hour/day,
7 days/week/52weeks/year. Date required is based on investigation date. Final date is the projected date of
compliance.

Approx Cost of Compliance \$2,184**TOTAL****\$2,512**

Compliance History

Customer/Respondent/Owner-Operator:	CN600953293	FRIENDS INTERNATIONAL INC	Classification: HIGH	Rating: 0.000
Regulated Entity:	RN101765709	SUPER DELI & GROCERY	Classification: HIGH	Site Rating: 0.00
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION		REGISTRATION	53128
Location:	1824 SENS RD, LA PORTE, TX, 77571		Rating Date: 9/1/03 Repeat Violator: NO	
TCEQ Region:	REGION 12 - HOUSTON			
Date Compliance History Prepared:	December 02, 2004			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	May 02, 1998 to May 02, 2003			

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Mike Limos Phone: (512) 239-5839

Site Compliance History Components

- | | |
|--|------------|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | <u>N/A</u> |
| 4. If Yes, who was/were the prior owner(s)? | <u>N/A</u> |
| 5. When did the change(s) in ownership occur? | <u>N/A</u> |
| 6. Comments: | <u> </u> |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
1 05/31/2002 (IE0018557001001)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
- F. Environmental audits.
N/A
- G. Type of environmental management systems (EMSs).
N/A
- H. Voluntary on-site compliance assessment dates.
N/A
- I. Participation in a voluntary pollution reduction program.
N/A
- J. Early compliance.
N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
FRIENDS INTERNATIONAL, INC.
DBA SUPER DELI & GROCERY,
RN101765709**

§
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§
§
§
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**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

DEFAULT AND SHUT DOWN ORDER DOCKET NO. 2003-0346-PST-E

At its _____ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's First Amended Report and Petition filed pursuant to TEX. WATER CODE chs. 7 and 26, TEX. HEALTH & SAFETY CODE ch. 382, and the rules of the TCEQ, which requests appropriate relief, including the revocation of the respondent's underground storage tank ("UST") delivery certificate, the imposition of an administrative penalty and corrective action of the respondent. The TCEQ also considered the Motion of the Executive Director requesting entry of an order requiring the respondent, Friends International, Inc. dba Super Deli & Grocery ("Friends International" or "Respondent"), to shutdown or remove from service the USTs at the Super Deli & Grocery, located at 1824 Sens Road, La Porte, Harris County, Texas.

The Commission makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Friends International owns and operates a convenience store with retail sales of gasoline located at 1824 Sens Road, La Porte, Harris County, Texas (the "Station").
2. Friends International's two underground storage tanks are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. Friends International's USTs contain a regulated petroleum substance as defined in the rules of the Commission. The Station consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. During an inspection conducted on May 31, 2002, a TCEQ Houston Regional Office investigator documented that Friends International:
 - a. Failed to maintain proof of attendance and completion of facility representative training as specified in 30 TEX. ADMIN. CODE § 115.248 (regarding state approved Stage II training course) and documentation of Stage II training for each employee;

- b. Failed to conduct monthly monitoring of the UST systems;
 - c. Failed to monitor each pressurized line for releases; and
 - d. Failed to conduct effective manual or automatic inventory control procedures for all UST systems at a retail station.
4. The Executive Director recognizes that Friends International has provided proof of attendance and completion of facility representative training (regarding state approved Stage II training course) and documentation of Stage II training for each employee.
 5. By letter dated August 30, 2002, the TCEQ Houston Regional Office provided Friends International with notice of the violations and the TCEQ's authority to shut down and remove from service UST systems not in compliance with UST system release detection, spill and overflow prevention and/or corrosion protection requirements if the violations were not corrected.
 6. Friends International received notice of the violations on or about September 4, 2002.
 7. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Friends International, Inc. dba Super Deli & Grocery" (the "EDPRP") in the TCEQ Chief Clerk's office on December 15, 2004.
 8. By letter dated December 15, 2004, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director mailed Friends International notice of the EDPRP. Neither the first class mail nor the certified mail was returned.
 9. The Executive Director filed the "Executive Director's First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Friends International, Inc. dba Super Deli & Grocery" (the "EDFARP") in the TCEQ Chief Clerk's office on August 21, 2007.
 10. By letter dated August 21, 2007, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Friends International with notice of the EDFARP. According to the return receipt "green card," Friends International received notice of the EDFARP on August 22, 2007, as evidenced by the signature on the card.

11. More than 20 days have elapsed since Friends International received notice of the EDFARP, provided by the Executive Director. Friends International failed to file an answer to the EDFARP, failed to request a hearing, and failed to schedule a settlement conference.
12. By letter dated February 8, 2008, the TCEQ provided Friends International with notice of the TCEQ's intent to order the UST systems at the Facility shut down and removed from service if the violations pertaining to release detection were not corrected within 30 days of Friends International's receipt of the letter.
13. As of the date of entry of this Order, Friends International has not corrected the tank release detection violations noted during the May 31, 2002, investigation.
14. The UST systems at the Facility do not have release detection as required by 30 TEX. ADMIN. CODE § 334.50 and may be releasing petroleum products to the environment without the knowledge of the tank owner or operator. Therefore, conditions at the Station constitute an imminent peril to public health, safety, and welfare.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Friends International is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26, TEX. HEALTH & SAFETY CODE ch. 382, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3.a., Friends International failed to maintain proof of attendance and completion of facility representative training as specified in 30 TEX. ADMIN. CODE § 115.248 (regarding state approved Stage II training course) and documentation of Stage II training for each employee, in violation of 30 TEX. ADMIN. CODE § 115.246(4) and TEX. HEALTH & SAFETY CODE § 382.085(b).
3. As evidenced by Finding of Fact No. 3.b., Friends International failed to conduct monthly monitoring of the UST systems, in violation of 30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1).
4. As evidenced by Finding of Fact No. 3.c., Friends International failed to monitor each pressurized line for releases, in violation of 30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(ii) and TEX. WATER CODE § 26.3475(a).
5. As evidenced by Finding of Fact No. 3.d., Friends International failed to conduct effective manual or automatic inventory control procedures for all UST systems at a retail station, in violation of 30 TEX. ADMIN. CODE § 334.48(c).

6. As evidenced by Finding of Fact Nos. 9 and 10, the Executive Director has timely served Friends International with proper notice of the EDFARP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
7. As evidenced by Finding of Fact No. 11, Friends International has failed to file a timely answer to the either the EDPRP or the EDFARP, as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Friends International and assess the penalty recommended by the Executive Director.
8. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Friends International for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
9. An administrative penalty in the amount of sixteen thousand dollars (\$16,000.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
10. As evidenced by Findings of Fact Numbers 3, 4, 5, 6, 12, and 13, Friends International failed to correct all documented violations of Commission requirements within 30 days after Friends International received notice of the violations and notice of the Executive Director's intent to shut down the Station.
11. TEX. WATER CODE § 26.3475(e) authorizes the Commission to order a UST owner or operator to shut down a UST system if, within 30 days after receiving notice of the violations, the owner or operator fails to correct violations of Commission regulatory requirements relating to release detection for tanks and/or piping, spill and overflow protection for tanks, and/or corrosion protection for tanks and piping.
12. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.
13. Pursuant to 30 TEX. ADMIN. CODE § 334.8(c)(6), the Commission has authority to revoke Friends International's UST delivery certificate if the Commission finds that good cause exists.

14. Good cause for revocation of Friends International's UST delivery certificate exists as justified by Findings of Fact Nos. 3 through 14 and Conclusions of Law Nos. 2, 3, 4, 5, 6, 7, and 10.
15. As evidenced by Findings of Fact No. 14 current conditions at the Facility constitute an imminent peril to public health, safety and welfare. Therefore, pursuant to TEX. GOV'T CODE § 2001.144(a)(3), this Order is final and effective on the date rendered.

ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Immediately upon the effective date of this Order:
 - a. Friends International shall take the following steps to shut down operations of the non-compliant UST systems at the Station:
 - i. Cease dispensing fuel from the USTs;
 - ii. Cease receiving deliveries of regulated substances into the USTs;
 - iii. Padlock the dispensers;
 - iv. Empty the USTs of all regulated substances in accordance with 30 TEX. ADMIN. CODE § 334.54(d); and
 - v. Temporarily remove the UST systems from service in accordance with 30 TEX. ADMIN. CODE § 334.54.
 - b. Friends International's UST delivery certificate is revoked immediately upon the effective date of this Order. Friends International may submit an application for a new delivery certificate only after Friends International has complied with all of the requirements of this order.
2. Within 10 days after the effective date of this Order, Friends International shall send its UST delivery certificate to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

3. Within 15 days after the effective date of this Order, Friends International shall submit to the Executive Director a detailed written report documenting the steps it has taken to comply with Ordering Provisions Nos. 1.a.i. through 1.a.v. Friends International shall submit the report to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

and

Nicole Bealle, Waste Section Manager
Texas Commission on Environmental Quality
Houston Regional Office
5425 Polk Street, Suite H
Houston, Texas 77023-1452

4. If Friends International elects to permanently remove from service any UST systems at the Station, Friends International shall permanently remove those UST systems in accordance with 30 TEX. ADMIN. CODE § 334.55, and shall, within 15 days after the effective date of this Order, submit to the Commission a written report documenting compliance with 30 TEX. ADMIN. CODE § 334.55. Friends International shall submit the report to:

Petroleum Storage Tank Registration Team, MC 138
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

5. Friends International is assessed an administrative penalty in the amount of sixteen thousand dollars (\$16,000.00) for violations of TEX. WATER CODE chs. 7 and 26, TEX. HEALTH & SAFETY CODE ch. 382, and rules of the TCEQ. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not

raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality." The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: Friends International, Inc. dba Super Deli & Grocery; Docket No. 2003-0346-PST-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

6. Prior to resuming service of the USTs, Friends International shall:
 - a. Test or monitor the piping in the UST systems;
 - b. Install and implement a release detection method in accordance with 30 TEX. ADMIN. CODE § 334.50; and
 - c. Begin conducting inventory control and reconciliation procedures, in accordance with 30 TEX. ADMIN. CODE § 334.48(c);
7. Within 10 days of resuming service of the USTs, Friends International shall submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision numbers 6.a. through 6.c.

The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

With a copy to:

Nicole Bealle, Waste Section Manager
Texas Commission on Environmental Quality
Houston Regional Office
5425 Polk Street, Suite H
Houston, Texas 77023-1452

8. Friends International's UST systems shall remain out of service as directed by Ordering Provision No. 1.a. until such time as Friends International demonstrates to the satisfaction of the Executive Director that it has corrected the violations noted in Findings of Fact Nos. 3.b. and 3.c. and Conclusions of Law No. 3 and 4 herein. The payment of the administrative penalty and Friends International's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action.
9. All relief not expressly granted in this Order is denied.
10. The provisions of this Order shall apply to and be binding upon Friends International. Friends International is ordered to give notice of this Order to personnel who maintain day-to-day control over the Station operations referenced in this Order.
11. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Friends International if the Executive Director determines that Friends International has not complied with one or more of the terms or conditions in this Order.
12. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
13. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF DINNIAH M. CHAHIN

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

“My name is Dinniah M. Chahin. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, James P. Biggins filed the “Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Friends International dba Super Deli & Grocery” (the “EDPRP”) with the Office of the Chief Clerk on December 15, 2004.

James P. Biggins sent the EDPRP to Friends International at its last known address on December 15, 2004 via certified mail, return receipt requested, and via first class mail, postage prepaid. Neither the first class mail nor the certified mail has been returned.

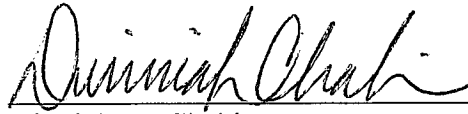
On behalf of the Executive Director of the Texas Commission on Environmental Quality, I filed the “Executive Director’s First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Friends International dba Super Deli & Grocery” (the “EDFARP”) with the Office of the Chief Clerk on August 21, 2007.

I sent the EDFARP to Friends International at its last known address on August 21, 2007 via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card,” Friends International received notice of the EDFARP on August 22, 2007, as evidenced by the signature on the card.

More than 20 days have elapsed since Friends International received notice of the EDFARP. Friends International failed to file an answer to either the EDPRP or the EDFARP, failed to request a hearing, and failed to schedule a settlement conference.

By letter dated February 8, 2008, sent via first class mail and certified mail, return receipt requested (Article Nos. 7004 2510 0003 9117 9300 and 7004 2510 0003 9117 9317), I provided Friends International with notice of the TCEQ’s intent to order the UST systems at the Facility shutdown and removed from service if the violations pertaining to release detection, spill and overflow prevention equipment, and/or corrosion protection were not corrected within 30 days of Friends International’s receipt of the letter. As of the date of this affidavit, Friends International has not corrected the violations noted during the May 31, 2002 investigation.

As of the date of this affidavit, Friends International has not corrected the violations noted during the May 31, 2002 inspection."



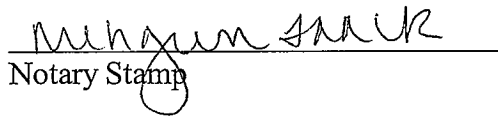
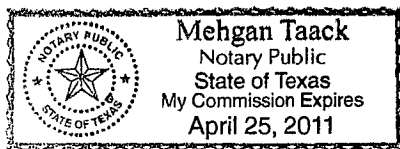
Dinniah M. Chahin

Attorney

Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Dinniah M. Chahin, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 12th day of FEBRUARY, A.D., 2008.


Notary Stamp